

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TRAVELERS INDEMNITY COMPANY and
TRIUMPH CONSTRUCTION CORP.,

Plaintiffs,

v.

UNITED STATES FIRE INSURANCE
COMPANY,

Defendant.

CIVIL ACTION NO.

JURY TRIAL DEMANDED

NOTICE OF REMOVAL

**NOTICE OF REMOVAL OF DEFENDANT
UNITED STATES FIRE INSURANCE COMPANY**

PLEASE TAKE NOTICE that defendant UNITED STATES FIRE INSURANCE COMPANY (“US Fire”), by and through its attorneys Kennedys CMK LLP, hereby removes this action, pursuant to 28 U.S.C. §§ 1332(a), 1441 and 1446, from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

In support of this Notice of Removal, US Fire states the following:

1. On June 22, 2022, plaintiffs Travelers Indemnity Company (“Travelers”) and Triumph Construction Corp. (“Triumph”), commenced the above-captioned action against US Fire in New York State Supreme Court, County of New York.
2. True and correct copies of the Summons and Complaint are attached as **Exhibit**
 1. The Complaint asserts a cause of action against US Fire for breach of contract and declaratory relief.
 3. US Fire was served with the Summons and Complaint through the New York State Department of Financial Services on June 29, 2022.

4. This Notice of Removal is being filed in the United States District Court for the Southern District of New York, as it is the District in which the state case is pending.

5. This Notice of Removal is being filed within thirty (30) days of defendant US Fire's receipt of service of the Summons and Complaint, as required by 28 U.S.C. § 1446(b).

6. This Court has original jurisdiction over this action under 28 U.S.C. § 1332(a)(1), because this is an action between citizens of different States, and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

DIVERSITY OF CITIZENSHIP

7. Plaintiff Travelers is an insurance corporation organized pursuant to the laws of the State of Connecticut with a principal place of business in New York City, New York. See Exhibit 1 at ¶ 1. Accordingly, Travelers is a Citizen of Connecticut and New York.

8. Plaintiff Triumph is a corporation organized pursuant to the laws of the State of New York with a principal place of business in Bronx, New York. See Exhibit 1 at ¶ 2. Accordingly, Triumph is a Citizen of New York.

9. Defendant US Fire is a corporation organized pursuant to the laws of the State of Delaware with its main administrative offices in Morristown, New Jersey. Accordingly, US Fire is a Citizen of Delaware and New Jersey.

10. Complete diversity of citizenship within the meaning of 28 U.S.C. § 1332(a) exists as between all plaintiffs and all defendants because the plaintiffs are citizens of New York and/or Connecticut, and the defendant is a citizen of Delaware and New Jersey.

AMOUNT IN CONTROVERSY

11. Diversity jurisdiction under 28 U.S.C. § 1332 also requires that the amount in controversy, exclusive of interest and costs, be in excess of \$75,000.

12. The amount in controversy exceeds \$75,000, exclusive of interest and costs, because the plaintiffs' Complaint seeks, in connection with an underlying litigation, reimbursement of defense costs, a declaration that it is entitled to defense costs going forward, and a declaration that US Fire must provide indemnity for the underlying litigation. The costs and declaratory relief sought by plaintiffs will exceed \$75,000.

13. US Fire will provide plaintiffs with prompt written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d) and will file a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of New York where the Complaint was originally filed.

Dated: New York, New York
July 29, 2022

Respectfully submitted,

KENNEDYS CMK LLP

/s/ Frank M. Falcone

Kristin V. Gallagher
Frank M. Falcone
570 Lexington Avenue, 8th Floor
New York, NY 10022
(646) 625-4000
Attorneys for Defendant
United States Fire Insurance Company

TO: KENNEY SHELTON LIPTAK NOWAK LLP
Attorneys for Plaintiffs
Travelers Indemnity Company and
Triumph Construction Corp.
233 Franklin Street

Buffalo, New York 14202
Attn: Matthew C. Ronan, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail and U.S. Postal Mail to the following counselors of record:

TO: KENNEY SHELTON LIPTAK NOWAK LLP
Attorneys for Plaintiffs
Travelers Indemnity Company and
Triumph Construction Corp.
233 Franklin Street
Buffalo, New York 14202
Attn: Matthew C. Ronan, Esq